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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91210683
Party	Plaintiff Roto-Rooter Corporation
Correspondence Address	Theodore R. Remaklus Wood, Herron & Evans, L.L.P. 441 Vine Street2700 Carew Tower Cincinnati, OH 45202 UNITED STATES tremaklus@whe-law.com
Submission	Motion for Default Judgment
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Date	07/02/2013
Attachments	Motion for default judgment.pdf(14834 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

_____)	
Roto-Rooter Corporation,)	Opposition No. 91210683
)	
Opposer,)	
)	Application No. 85/689,385
v.)	Published: January 22, 2013
)	
Rooter-Rooter LLC,)	
)	
Applicant.)	
_____)	

MOTION FOR DEFAULT JUDGMENT

Opposer Roto-Rooter Corporation ("Opposer") moves the Board pursuant to 37 C.F.R. § 2.106(a) for entry of default judgment on the grounds that Applicant Rooter-Rooter LLC ("Applicant") has failed to file an answer within the time set by the Board. In support of its Motion, Applicant states:

1. On May 17, 2013, Opposer filed a Notice of Opposition to Application No. 85/689,385 for the mark ROOTER-ROOTER PLUMBING & DRAIN CLEANING ROOTER-ROOTER and Design mark ("the ROOTER-ROOTER Mark") for "municipal, commercial, industrial and residential drain and sewer cleaning and rooting services; maintaining septic systems; pumping septic tanks; septic tank cleaning; septic tank pumping and cleaning; plumbing services; sewer line installation and repair" in International Class 37 (hereinafter "the '385 Application"). The opposition was filed on the basis that there is a likelihood of confusion between Applicant's ROOTER-ROOTER Mark and Opposer's many earlier-filed and earlier-used ROTO-ROOTER bearing registrations for use in connection with sewer, pipe and drain

cleaning services, and other plumbing-related services and goods, as well as dilution of Opposer's famous ROTO-ROOTER mark.

2. The undersigned served on May 17, 2013 by first class mail a copy of the Notice of Opposition on Applicant's counsel of record at the address that is of record with the USPTO.

3. On May 17, 2013, the Board set June 26, 2013 as the time for Applicant to file an answer to the Notice of Opposition.

4. As of the date of this Motion for Default Judgment (July 2, 2013), Applicant has neither filed an answer to the Notice of Opposition, nor requested an extension of time to file such an answer.

7. "[T]he standard for determining whether a default judgment should be entered against the defendant, for its failure to file a timely answer to the complaint, is the Fed. R. Civ. P. 55(c) standard, which requires that the defendant show good cause why default judgment should not be entered against it." TTAB Manual of Procedure § 508, p. 500-37.

8. Because Respondent has failed to file an answer to the Notice of Opposition within the time permitted, default judgment should be granted to Opposer and an order entered sustaining the opposition to the '385 Application in Class 37.

WHEREFORE, Roto-Rooter Corporation respectfully requests that its Motion for Default Judgment be granted.

Respectfully submitted,

Roto-Rooter Corporation

Date: July 2, 2013

By: /s/ Theodore R. Remaklus
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Attorneys for Opposer
Roto-Rooter Corporation

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **Motion for Default Judgment** has been served by first class mail, postage prepaid, upon counsel for Applicant, Josh Gerben, Gerben Law Firm, PLLC, 1050 Connecticut Ave. NW, FL 1011, Washington, D.C. 20036-5334, the listed correspondence address, this 2nd day of July, 2013.

/s/ Theodore R. Remaklus

Theodore R. Remaklus

Attorney for Opposer
Roto-Rooter Corporation